

OTHER AGENCY LETTERS

IANA UNIVERSITY



812-855-1347

March 21, 2005

INDIANA
GEOLOGICAL SURVEY

Ms. Margaret Barondess, Manager
Environmental Section
Project Planning Division
Michigan Department of Transportation
Murray D. Van Wagoner Building
P.O. Box 30050
Lansing, MI 48909

Dear Ms. Barondess,

This is in response to your February 18, 2005 letter concerning the Draft Environmental Impact Statement (EIS) for construction alternatives for US-131 from the Indiana Toll Road (I-80/90) to a point one mile north of Cowling Road, located in St. Joseph County, Michigan and Elkhart County, Indiana. Material was reviewed concerning the side of the project located in Elkhart County, Indiana. This area of the project should not affect nor be affected by the geology of the site.

Sincerely,

A handwritten signature in cursive script that reads 'Jennifer Olejnik'.

Jennifer Olejnik
Geologist

North Walnut Grove
Bloomington, Indiana
47405-2208

812-855-5067
Fax: 812-855-2862



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Indiana Michigan Power
Hydro Generation
13840 E. Jefferson
Mishawaka, IN 46545
IndianaMichiganPower.com

574-255-8946

Mr. Bob Parsons
Public Hearings Officer
Michigan Department of Transportation
425 W. Ottawa Street
P.O. Box 30050
Lansing, MI 48909

April 14, 2005

Dear Mr. Parsons:

Subject: MDOT U. S. 131 Improvement Study – St. Joseph County
Our Mottville Hydroelectric Project No. 401
Mottville and Constantine Townships; Proposed Bridge Span Across St. Joseph River

Our understanding is that any comments to Michigan Department of Transportation (MDOT) concerning the planning and design of the subject U. S. 131 Improvement Study, which will likely include a bridge crossing over the St. Joseph River west of the Village of Constantine, Michigan, are to be directed to your attention. Since the alternatives presented at the most recent public information meeting (of March 29, 2005, at Three Rivers, Michigan) appear to be currently in the planning stage, we felt it might be appropriate to inform MDOT of Indiana Michigan Power Company's (I&M) role and responsibilities relative to any proposal involving this river crossing.

The Federal Energy Regulatory Commission (FERC) issued a license to I&M under an order dated April 17, 2003, for operation of the Mottville Hydroelectric Project. The FERC license became effective September 18, 2003, with a termination date of September 18, 2033, and there are license conditions which define the responsibilities of I&M with regard to the proposed U. S. 131 river crossing (bridge placement). Those responsibilities are not restricted only to the physical structures for the hydroelectric dam and plant project, but also apply to the areas encompassed within the FERC project boundaries. For the Mottville Project, the FERC project boundaries essentially follow the limits of the reservoir for the project, which extends up river from the project dam spillway (at Mottville in Mottville Township) approximately 10 miles to the western edge of the Village of Constantine, Michigan. The hydroelectric project boundary (including the area where your current U. S. 131 river crossing alternatives are proposed on the west side of the Village of Constantine) is shown on the enclosed copy of Exhibit G, which is a part of the license for the Mottville Hydroelectric Project. From the Exhibit G drawing, it can be seen that the proposed river crossing alternatives (and any associated bridge placement) will extend into and across the boundaries for the Mottville Project.

Based upon the limited information available to this office to date, it does appear that several of the alternate river crossings will take place within the project boundaries for the Mottville Hydroelectric Project. In addition, it is anticipated that the work will likely result in encroachments onto property owned in fee simple absolute by I&M thus requiring a property conveyance of some sort from I&M to MDOT (or to the State of Michigan, if applicable). It should be noted that the impounded lands owned in fee by I&M that are a part of the project reservoir that abut and lie above the historic riverbed.

Under Article 415 of its license (see attached), I&M has the authority to grant permission for certain types of use and occupancy of project lands and waters without obtaining the approval of the FERC, while FERC approval is required under some specific situations. The type of use and occupancy permission to be granted by I&M depends on the situation and the respective land rights. In general, if the property conveyance is in the form of a lease, easement, or right-of-way across project lands, I&M would only need to file a report with the FERC by

Mr. Bob Parsons
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January 31 of the year following when the conveyance was made. However, if the property conveyance is for the fee title, I&M would be required to submit, at least 60 days prior to conveying any interest in the project lands, a letter to the FERC stating I&M's intent. The FERC would then have 45 days from the date the letter of intent is filed with the FERC to respond. If the FERC does not respond within that time frame, I&M would then be able to grant the conveyance. However, the FERC could respond and ask for additional information that could cause delays.


Relative to any placement of a bridge to carry U. S. 131 across the St. Joseph River as indicated by the proposed alternate locations, I&M's responsibilities are based upon the current FERC license, discussions with FERC staff, and previous experiences at our other FERC-licensed projects. For a bridge placement, which encroaches within the project boundary, FERC approval will likely be required in order for the property conveyance to take place.

Additionally, documentation of approval of any proposed bridge placement within the project boundaries from the appropriate regulatory agencies, including the State Historic Preservation Officer (SHPO) for the State of Michigan, is required by I&M before any type of property conveyance can be completed. Copies of any permits received for the bridge placement work will need to be provided to I&M, along with documentation that the SHPO has been notified. Any comments from the agencies and/or the SHPO will need to be provided to I&M along with adequate information describing the work to take place including a delineation of the extent of the work area. The above information would then be included on any filing or report submitted to the FERC by I&M.

Regarding any work associated with placement of a bridge at any of the proposed alternate locations, it should be recognized that I&M would also need to be consulted if it is intended to lower the Mottville reservoir at any time to perform the work. Permission to lower the reservoir will be necessary through I&M from the appropriate State and Federal regulatory agencies, the local governments, and the FERC.

In preparing your schedule for a bridge placement across the St. Joseph River at any of the proposed St. Joseph River crossing alternatives, we recommend that at least 90 days be allotted for I&M to process the documentation necessary for any work to take place within the project boundaries for the Mottville Hydroelectric Project. Additional time should be allocated as discussed above for the FERC to review and reply to any filings as necessary. Any questions regarding details associated with any potential property conveyance should be sent to my attention at the address shown in this letterhead. My direct line phone number is 574-236-1682. If you have any other questions or concerns regarding I&M's responsibilities under the license for the Mottville Hydroelectric Project, or would like to meet to discuss those responsibilities further, please contact me at your convenience.

Sincerely,


Jeffery N. Reece
Senior Real Estate Agent

JNR/eg
Enclosures

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authorized in this license, or resume such activities in the vicinity of any discovered property until informed by the Commission that the requirements of this article have been fulfilled.

Article 415. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the impoundment shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing

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permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or rights-of-way across, or leases of project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project impoundment. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed. If no conveyance was made during the prior calendar year, the licensee shall so inform the Commission and the Regional Director in writing no later than January 31 of each year.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 60 days

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before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not

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necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(F) The licensee shall serve copies of any Commission filing required by this order on any entity specified in this order to be consulted on matters related to the filing. Proof of service on these entities must accompany the filing with the Commission.

(G) This order is issued under authority delegated to the Director and is final unless a request for rehearing is filed within 30 days from the date of its issuance, as provided in Section 313(a) of the FPA. The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. The licensee's failure to file a request for rehearing of this order shall constitute acceptance of this license.

J. Mark Robinson
Director
Office of Energy Projects

Mr. Robert Parsons
Project Planning Division
Michigan Department of Transportation
US-131 Improvement Study

Bruce MacKellar
MSU Extension ANR Educator
St. Joseph County MSU Extension

April 29, 2005

Dear Mr. Parsons,

I work for MSU Extension, serving as the Field and Irrigated Crop Educator for St. Joseph and Kalamazoo Counties. I spent a couple of hours this afternoon looking at the areas in the county that will be affected by the "Practical Alternatives" listed for the US-131 Corridor in St. Joseph County. I can see that the community will most likely struggle to find a balance between the benefits of the improved infrastructure of a freeway and the impact that these changes could mean for agriculture in the county.

From the perspective of someone who works with the agricultural community, I have a couple of areas of concern when you consider changing the route of US-131. Probably the most important issue is how the route will affect farm fields and irrigation systems. In looking at potential impacts to agriculture listed in your "Public Hearing Information" publication, I see the number of total agricultural acreage directly affected as ranging from 39 acres to 571 acres. The full impact on the agricultural operations affected and the area will be much greater. Center pivot irrigation systems are the economic engine of agricultural production of specialty crops in this area. When fields are traversed by a construction project, these systems will have to be modified or abandoned. Fields that cannot be irrigated will no longer be capable of producing the high value crops, seed corn, potatoes and/or snap beans. This means that from an economic standpoint, the impacted acreage may be expanded to the field boundaries of affected fields. With the farmland in question commanding some of the highest agricultural property values in the state, the potential financial implication to producers will be significant.

In addition to the loss of farmland and potential earnings, the construction project will have other impacts on the agricultural community. Perhaps the most significant will be the loss of access from one side of US 131 to the other. Currently, producers are able to traverse 131 at many different points on county roads. If the proposed limited access freeway is constructed, the distance that will have to be traveled to reach fields that are currently adjacent will be greatly increased. It is a major concern that much of the farm equipment traffic will be forced to cross the freeway in the village of Constantine, on US-12, or at M-60. I would expect that increased congestion due to slow moving agricultural

equipment crossing the highway would have a significant impact on traffic on these roadways. Increasing the number of overpass, underpass routes over the freeway can help to reduce the amount of farm equipment traffic that is forced to use the roads with the interchanges. I presume that this will increase the cost of the project, but will help to solve potentially dangerous farm equipment automobile accidents on these busy interchanges.

And finally, the two seed corn production plants located south of Constantine have high volumes of truck traffic originating from many different areas in the county during harvest in September and October. I think that it would be important to look at the impact of the various alternatives on the flow of traffic into and out of the plants during these months.

We seem to be standing at a crossroads in the US 131 development in St. Joseph County. There appears to be potential for new economic development opportunities if US 131 becomes a limited access freeway. However, these proposed changes will have significant economic impacts on farmers directly affected by implementation of the improvement plan. It will also change the traffic patterns of agricultural equipment on roadways in the area. This will have an impact on a wider number of producers, but can also affect motorists and potentially emergency vehicle traffic in the communities.

I hope that these comments were useful.

Respectfully Submitted,

Bruce MacKellar
St. Joseph County MSU Extension.



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574-255-8946

Mr. Jason Latham
Planning Manager
Southwest Region Office
Michigan Department of Transportation
1501 E. Kilgore Road
Kalamazoo, MI 49001

May 29, 2007

Dear Mr. Latham:

Subject: MDOT U. S. 131 Improvement Study – St. Joseph County
Indiana Michigan Power - Mottville Hydroelectric Project No. 401
Mottville and Constantine Townships; Proposed Bridge Span Across St. Joseph River

Our understanding is that any comments to Michigan Department of Transportation (MDOT) concerning the planning and design of the subject U. S. 131 Improvement Study, which will likely include a bridge crossing over the St. Joseph River west of the Village of Constantine, Michigan, are to be directed to your attention. Since the MDOT-preferred alternative presented at the recent Constantine Village Council information meeting of April 23, 2007, at Constantine, Michigan, now appears to be moving toward the highway design stage, this office felt it prudent to inform MDOT of Indiana Michigan Power Company's (I&M) role and responsibilities relative to the MDOT-preferred "PA5" alternative that involves the subject river crossing.

The Federal Energy Regulatory Commission (FERC) issued a license to I&M under an order dated April 17, 2003, for operation of the Mottville Hydroelectric Project. The FERC license became effective September 18, 2003, with a termination date of September 18, 2033, and there are license conditions which define the responsibilities of I&M that may affect the proposed U. S. 131 river crossing (bridge placement). Those responsibilities are not restricted only to the physical structures for the hydroelectric dam and plant project, but also apply to the areas encompassed within the FERC project boundaries. For the Mottville Project, the FERC project boundaries essentially follow the limits of the reservoir for the project, which extends up river from the project dam spillway (at Mottville in Mottville Township) approximately 10 miles up to the western edge of the Village of Constantine, Michigan. The hydroelectric project boundary (including the area where your current U.S. 131 "PA5" alternative highway river crossing is proposed on the west side of the Village of Constantine) is shown on the enclosed copy of Exhibit G, which is a part of the license for the Mottville Hydroelectric Project. From the Exhibit G drawing, it can be seen that the proposed river crossing (and any associated bridge placement) will extend into and across the boundaries for the Mottville Project.

Based upon the limited information available to this office to date, it does appear that this river crossing will take place within the project boundaries for the Mottville Hydroelectric Project. In addition, it is anticipated that the work will likely result in encroachments onto property owned in fee simple absolute by I&M at this river crossing location, thus requiring a property conveyance of some sort from I&M to MDOT (or to the State of Michigan, if applicable). It should be noted that the impounded lands owned in fee by I&M that are a part of the project reservoir currently abut and lie above the historic riverbed.

Under Article 415 of its license (see attached), I&M has the authority to grant permission for certain types of use and occupancy of project lands and waters without obtaining the approval of the FERC, while FERC approval is required under some specific situations. The type of use and occupancy permission to be granted by I&M depends on the situation and the respective land rights. In general, if the property conveyance is in the form of a lease, easement, or right-of-way across project lands, I&M would only need to file a report with the FERC by

January 31 of the year following when the conveyance was made. However, if the property conveyance is for the fee title, I&M would be required to submit, at least 60 days prior to conveying any interest in the project lands, a letter to the FERC stating I&M's intent. The FERC would then have 45 days from the date the letter of intent is filed with the FERC to respond. If the FERC does not respond within that time frame, I&M would then be able to grant the conveyance. However, the FERC could respond and ask for additional information that could cause delays.

Additionally, documentation of approval of any proposed bridge placement within the project boundaries from the appropriate regulatory agencies, including the State Historic Preservation Officer (SHPO) for the State of Michigan, is required by I&M before any type of property conveyance can be completed. Copies of any permits received for the bridge placement work will need to be provided to I&M, along with documentation that the SHPO has been notified. Any comments from the agencies and/or the SHPO will need to be provided to I&M along with adequate information describing the work to take place including a delineation of the extent of the work area. The above information would then be included on any filing or report submitted to the FERC by I&M.

Regarding any work associated with placement of a bridge at the proposed "PA5" river crossing location, it should be recognized that I&M will also need to be consulted if it is intended to lower the Mottville reservoir at any time to perform the work. Permission to lower the reservoir will be necessary through I&M from the appropriate State and Federal regulatory agencies, the local governments, and the FERC.

In preparing your schedule for a bridge placement across the St. Joseph River at the proposed St. Joseph River "PA5" crossing (or at any other "PA" alternative river crossing locations), we recommend that at least 90 days be allotted for I&M to process the documentation necessary for any work to take place within the project boundaries for the Mottville Hydroelectric Project. Additional time should be allocated as discussed above for the FERC to review and reply to any filings as necessary. Any questions regarding details associated with any potential property conveyance should be sent to my attention at the address shown in this letterhead. My direct line phone number (Mishawaka, Indiana) is 574-236-1682. If you have any other questions or concerns regarding I&M's responsibilities under the license for the Mottville Hydroelectric Project, or would like to meet to discuss those responsibilities further, please contact me at your convenience.

Sincerely,



Jeffrey N. Reece
Senior Real Estate Agent

JNR/eg
Enclosures

**INDIANA MICHIGAN POWER COMPANY
MOTTVILLE HYDROELECTRIC PROJECT NO. 401
MOTTVILLE, MICHIGAN
LICENSE ARTICLE 415**

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authorized in this license, or resume such activities in the vicinity of any discovered property until informed by the Commission that the requirements of this article have been fulfilled.

Article 415. (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the impoundment shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing

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permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensee may convey easements or rights-of-way across, or leases of project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project impoundment. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed. If no conveyance was made during the prior calendar year, the licensee shall so inform the Commission and the Regional Director in writing no later than January 31 of each year.

(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 60 days

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before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters.

(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not

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necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensee under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

(F) The licensee shall serve copies of any Commission filing required by this order on any entity specified in this order to be consulted on matters related to the filing. Proof of service on these entities must accompany the filing with the Commission.

(G) This order is issued under authority delegated to the Director and is final unless a request for rehearing is filed within 30 days from the date of its issuance, as provided in Section 313(a) of the FPA. The filing of a request for rehearing does not operate as a stay of the effective date of this license or of any other date specified in this order, except as specifically ordered by the Commission. The licensee's failure to file a request for rehearing of this order shall constitute acceptance of this license.

J. Mark Robinson
Director
Office of Energy Projects

CULTURAL RESOURCE GROUPS

Little Traverse Bay Bands of Odawa Indians
915 Emmet St. P.O. Box 246
Petoskey, MI. 49770
(231) 348-3410

Cultural & Historic Preservation/Archives & Records Office
(231) 439-3865
archives@freeway.net

6 July 2000

Sean Dunham
Commonwealth Cultural Resources
2530 Spring Arbor Rd.
Jackson, MI. 49203

Dear Mr. Dunham,

Your letter of 29 June 2000 to Frank Ettawageshik was forwarded to me for reply. In regard to the US-131 Constantine Bypass, the Little Traverse Bay Bands of Odawa Indians is unaware of any cultural resources that may exist within the project area described in the materials you submitted to us. However, we do have an interest with any Native American human remains or archaeological resources that may become identified during this project. Should you have any further questions you may contact me at (231) 439-3865.

Also for your future reference Mr. Ettawageshik has not been the tribal chairman for over a year now. The new tribal chairman is Gerald Chingwa.

Sincerely,

Wesley L. Andrews
Wesley L. Andrews
Cultural & Historic Preservation Officer

CHAIRMAN
John "Rocky" Barrett



SECRETARY-TREASURER
Gene Bruno

July 7, 2000

CITIZEN POTAWATOMI NATION

Mr. Sean B. Dunham, Project Coordinator
Commonwealth Cultural Resources Group, Inc.
2530 Spring Arbor Road
Jackson, Michigan 49203-3602

Subject: US-131, Constantine Bypass, St. Joseph Co., Michigan and Elkhart Co., Indiana

Dear Mr. Dunham:

Thank you for your letter dated June 29, 2000. The Citizen Potawatomi Nation welcomes the opportunity to make comments on proposed projects that have the potential to impact cultural resources affiliated with the Potawatomi. In this case, the Citizen Potawatomi Nation is anxious about the project because it has the potential to disturb a geographical area that is both prehistorically and historically associated with our Nation.

After careful consideration, the Citizen Potawatomi Nation will concur with the recommendations of the Michigan and Indiana State Archaeologists and State Historic Preservation Officers which portions of the project will require a Phase I archaeological survey. I ask that a copy of the final cultural resources report be forwarded upon its completion.

If a survey is not required and construction activities expose buried archaeological materials such as chipped stone tools, pottery, bone, historic crockery, glass, metal items or building materials, the Nation asks that it be contacted at (405) 275-3121 to reassess the project and provide recommendations.

Again, thank you for the project notification. If you should have any questions, please do not hesitate to contact me at your earliest convenience.

Sincerely,
CITIZEN POTAWATOMI NATION

Lisa Kraft
Cultural Resources Management Consultant

CC: John A. Barrett, Jr., Chairman, Citizen Potawatomi Nation
Linda Capps, Vice-Chairman, Citizen Potawatomi Nation
Mr. John L. Carr, Indiana State Historic Preservation Officer
Mr. Larry Macklin, Indiana State Archaeologist
Mr. John R. Halsey, Bureau of History, Michigan Department of State
Ms. Kathryn B. Eckert, Michigan Historical Center

Leaford Bearskin
Chief

P.O. Box 250
Wyandotte, OK 74370
Phone (918) 678-2297/98
Fax (918) 678-2944



James R. Bland
2nd Chief

803 North 7th Street
Kansas City, KS 66101
(913) 621-2000

July 17, 2000

Mr. Sean B. Dunham
Project Coordinator
Commonwealth Cultural Resources
Group, Inc.
2530 Spring Arbor Road
Jackson, Michigan 49203-3

Dear Mr. Dunham:

We have received and reviewed the documentation submitted concerning the referenced project listed on your letter of June 29, 2000. The project is listed as follows:

US-131, Constantine Bypass
St. Joseph County, Michigan and Elkhart County, Indiana

Examination of historic resource files in this office finds no properties documented within the project area that meet the criteria for concern to properties of traditional and/or ceremonial value.

Based on the topographic and hydrologic setting of your projects, archeological materials could likely be encountered. *Documentation on any historic archaeological site discovered requires immediate notification and proper archaeological field inspection is necessitated.* We would however, like to note to your company our concern with having any of the sites near schools and parks where there could be possible danger for children. We hope this too is one of your concerns and that precautions are taken with safety fencing, locked gates, etc.

If you should have any questions or comments please do not hesitate to contact our office.
Thank you for your consideration and cooperation.

Sincerely yours,

A handwritten signature in cursive script, reading "Barbara Kyser-Collier".

Barbara Kyser-Collier
Environmental Director